

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



August 4, 1998

ALL COUNTY LETTER NO. 98-59

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: FOSTER CARE DEFINITION OF RELATIVE

REASON FOR THIS TRANSMITTAL

- ☐ State Law Changes
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

REFERENCE: AB 1544, CHAPTER 793, STATUTES OF 1997

The purpose of this letter is to notify counties that the California Department of Social Services (CDSS) and the County Welfare Directors Association (CWDA) have agreed upon a proposed solution to the problem created by conflicting definitions of relative for placement, eligibility and licensing purposes.

The definition of relative in AB 1544 was intended to promote consistency among the different definitions of relative in effect in the law. However, the definition created unintended consequences for children who are not eligible for federal Aid to Families with Dependent Children – Foster Care (AFDC-FC) and who are living with relative caregivers. When AB 1544 expanded the eligibility definition to include the relatives of the child's half-sibling, it made children ineligible to receive a State AFDC-FC payment who were previously eligible if the foster parent were licensed. This is especially true of step-grandparents (parents of a step-parent), which are a common placement resource.

The CDSS and the CWDA have agreed upon legislative language that CWDA will include in Assembly Bill (AB) 2773 (Aroner, et. al), which, if passed, will become effective January 1, 1999. This bill is primarily intended to make state law conform to the federal Adoption and Safe Families Act of 1997, therefore it is likely to become law. The proposed language in AB 2773 removes the relatives of a child's half-sibling and all step relatives except for the step-parents and step-siblings of the child from the placement definition of relative, and removes the relatives of a child's half-sibling from the eligibility definition of relative. These definitions will not conflict with the licensing definition of relative. The result of this proposed language, if passed, is that the relatives of a child's half-sibling will have to be licensed to receive a State or federal foster care payment. Without this change, any federally ineligible child living with this class of relatives will be ineligible to receive a State foster care payment or CalWORKS and the result would be a county-only funded placement.

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Until the proposed new definition becomes law, counties must utilize the definitions that are current law, i.e., those set forth by AB 1544. As the CDSS must do the same, it will move forward with these definitions as it continues processing the regulatory changes necessary to implement all provisions of AB 1544. Attached for your information only is the draft relative definition and handbook section the Division 31 regulations will contain. They will not be official in the regulations until the regulatory process is completed and the regulations are approved by the Office of Administrative Law.

When AB 2773 is passed, new regulations will be promulgated to implement the changes necessary to make the placement, eligibility and licensing definitions more consistent. These new definitions will still not be completely consistent, i.e., some “extended” relatives will still have to be licensed for the children in their care to receive a State or federal foster care payment and children living with “extended” relatives that cannot be licensed will only be eligible to receive CalWORKS. Given the various and different federal and state limitations on California’s flexibility to alter placement, eligibility and licensing procedures, the CDSS feels that this solution is the best available to financially assist the most relative caregivers possible while not jeopardizing placement options that may be in the best interests of children.

If you have any questions, please contact the Foster Care Policy Bureau at (916) 445-0813.

Sincerely,

***Original Document Signed By
Marjorie Kelley on August 4, 1998***

MARJORIE KELLY
Deputy Director
Children and Family Services Division

c: CWDA

(r) (1) (Continued)

(3) “Relinquishment of a Child” means the action of a relinquishing parent who signs a relinquishment document in which he or she surrenders custody, control and any responsibility for the care and support of the child to the Department or any licensed public or private adoption agency pursuant to Family Code Section 8700.

(34) (Continued)

(45) “Relative” means an adult who is related to the child or child’s half sibling by blood or marriage, including all relatives whose status is preceded by the words “step”, “great”, “great-great”, or “grand”, or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. For the purposes of preferential consideration for placement of a minor child, “relative” means an adult who is a grandparent, aunt, uncle, or sibling of the minor child.

HANDBOOK BEGINS HERE

(A) The definition of relative for placement is not consistent with the definition of relative for eligibility determination for foster care payment. Therefore, some relatives may receive a dependent child for placement but may not receive a foster care payment on behalf of the child for providing the placement. In particular, the inconsistency applies to all step-relatives except step-parents and step-siblings and to all relatives of the child's half-sibling. Thus, it is prudent for placement workers to receive verification from eligibility workers as to whether the relatives they place dependent children with are eligible to receive foster care payments on behalf of those children.

HANDBOOK ENDS HERE

(56) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 300, 300(c), 300(e), 306(b), 309(d) (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 319 (as amended by ~~Senate Bill 2232, Chapter 1530, Statutes of 1990~~ Assembly Bill 1544, Chapter 793, Statutes of 1997), 361, 361.2 and 361.3 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997), 11400(a), 16501(a)(3), 16501.1(e)(9) (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 16501.1(f)(7), and 16503, Welfare and Institutions Code; Section 11165 et seq., Penal Code; Section 265, Civil Code; 43 USC Section 6751; Sections 1502, 1522.06 and 1505.2 (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), Health and Safety Code; 45 CFR 233.120.